

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

CASE NO. 05-80722-04

Plaintiff,

DISTRICT JUDGE PATRICK J. DUGGAN

v.

MAGISTRATE JUDGE DONALD A. SCHEER

ROBERT MULLENS,

Defendant.

/

**ORDER**

Defendant Robert Mullens' Motion for Disclosure Pursuant to Rules 404(b) and 609 of the Federal Rules of Evidence was referred to the undersigned magistrate judge for hearing and determination. A hearing was set for August 22, 2006. The parties, however, have waived formal hearing and requested that the matter be determined upon their written submissions.

Having reviewed Defendant's Motion, together with the Government's Response, the court finds that the Government has no intention of offering evidence governed by FRE 404(b) in its case- in-chief. The court further finds that Defendant is not entitled to pretrial disclosure of the government's intent to use evidence governed by FRE 609. Defendant is, however, entitled to a copy of his own prior criminal record. Fed.R.Crim.P 16(a)(1)(D). That record has been provided by him.

IT IS THEREFORE ORDERED that Defendant's Motion for Disclosure Pursuant to Rules 404(b) and 609 of the Federal Rules of Evidence is denied. Provided, however, that, should the Government determine to offer evidence under FRE 404(b), it shall provide Defendant reasonable notice in advance of trial, or during trial if the court

excuses pretrial notice on good cause shown, of the general nature of any such evidence intended to be introduced at trial.

s/Donald A. Scheer  
DONALD A. SCHEER  
UNITED STATES MAGISTRATE JUDGE

DATED: August 23, 2006

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#### CERTIFICATE OF SERVICE

I hereby certify on August 23, 2006 that I electronically filed the foregoing paper with the Clerk of the Court sending notification of such filing to all counsel registered electronically. I hereby certify that a copy of this paper was mailed to the following non-registered ECF participants on August 23, 2006. **None.**

s/Michael E. Lang  
Deputy Clerk to  
Magistrate Judge Donald A. Scheer  
(313) 234-5217